R. S. IX-5]

Previous references.

File No. 95

Serial Nos.

192 o.

(Cts.)

Later references.

89-21-1.

136-75, 1-3.

Perfew 12/11/23

GENERAL AND REVENUE SECRETARIAT

Serial Nos. Two.

Part B for November

SUBJECT.

Sanction to the issue of certain Pr
Practice to regulate the practice of C
in the matter of receipt & payme

8(2) To The Registrar, Chief
No. G. 9435 S

Sanctd

WD 2233—GPB—20,000—14-6-20

G. R. S. III—1] 1920.

5097

GENERAL AND REVENUE SECRETARIAT.

(Courts.)

NOTES.

File No. 95-20

FILE HEADING.

Sanction to issue certain Rules of Practice to regulate the powers of Civil Courts in the matter of receipt & payment of money

From

The Registrar, Chief Court of Sind

Roc No. 397/1966-17 Dated 20th Sept 1920 Received on 23-9-20

Diary No. 5097	Enclos. 1	Spare Copies. —	Serial No. 1.

BRIEF ABSTRACT OF LETTER.

Requests sanction to the issue of the enclosed Rule of Practice embodying all the necessary changes suggested & in supersession of the Rules of Practice nos. 127 & 129 & Civil Circular Letters nos. 156, 170, 198 & 206.

NOTES AND ORDERS.

1) Submitted with a draft G.O. for approval.

2) The Comptroller has also signified his approval to the proposed changes & the responsibility of the Judges to properly check the entries in the Registers has been retained & emphasized.

7-10-20.

NOTES—First Sheet.

2784
25-10-20.

III Member

3) Submitted

23/10

31/10

31/10

(2)

G. R. S. III-2

General and Revenue Secretariat.

Ch File No. 95 of 1920.

Serial No.	
2	To The Registrar, Chief Court. No. G. 9435 dtd 15-11-20. Sanctions the issue of certain Rules of practice to regulate the practice of Civil Courts in the matter of receipt & payment of money.

RECEIVED 22 NOV 1920

30/11

NOTE—Contn. sheet.

Bangalore,

Dated 20th September 1920.

From

G. Sreenivasa Iyer, Esq., B.A., B.L.,
Registrar of the Chief Court of Mysore.

To

C. S. Balasundaram Iyer, Esq., B.A., M.L.,
Chief Secretary to the Government of Mysore,
Bangalore.

Sir,

I am directed to state that under the existing rules a number of Ledgers known as Subsidiary Ledgers is required to be maintained by the Cash Nazir of a Civil Court entailing very heavy work without corresponding advantages. In a heavy court this work is more than a single clerk can attend to, and in some courts the Nazirs work overtime to bring their registers up to date. "Subsidiary Ledgers" are neither prescribed nor maintained in any of the courts in British India and the Judges consider that there is no good reason to continue them here.

In March 1903 Civil Circular Letter No.156 was issued directing all the Judges of the subordinate civil courts to examine the Cash Register at the close of every month and certify whether the sum found in the Register as the balance was correct and was correctly produced. This circular further directed the Judges to ascertain such correctness by "reference to the detailed statements of the balance according to cases or parties." Two years later in March 1905 the "detailed

statements"

statements" referred to in the above Circular letter were ordered to be arranged according to the different headings of the Cash Book (Vide C. L.No.170) and the form appended to this circular was called the Progressive Ledger and was practically a second copy of the Ledger. In March 1908, it was ordered that this "Progressive Ledger" should be replaced by an account called "Petty Ledger of outstanding cash items" and detailed instructions were also issued as to how the new Register should be maintained (Vide Circular Letter No.198 dated 30th March 1908). This circular virtually prescribed in addition to the Ledger in general use, 6 other Ledgers one for each class of items marked with letters A to F in the Cash Book. The form of this 'Petty Ledger' was subsequently modified to some extent in June 1908 and again in January 1912 but it still remains in substantially the same form in which it was 15 years ago, under the name of "Subsidiary Ledger."

The object with which these Subsidiary Ledgers are prescribed which is not more than the checking of ledger postings may be obtained by much simpler means than by the maintenance of these half a dozen registers.

First in regard to the amounts paid towards satisfaction of decrees, according to the present procedure, a receipt order is given to the person paying the amount and he produces the receipt order with the money to the Treasury officer who receives the money and certifies the payment on the receipt order. This is presented to the court and then entered in the Deposit

posit Register in the court. When a receipt for the amount is presented to court by the decree-holder, it is checked with the records and after the orders of the Judge are obtained a cheque is issued for the amount as against the particular receipt in the Treasury covered by a receipt order. The entries in the Deposit Register are initialled by the Judge at the same time and the entry in the receipt order is scored out. If any cheque is issued for an item not to be found in the Deposit Register, it will not be honoured at the Treasury. Thus there is no room for any dishonesty on the part of the Nazir in regard to the items in the Deposit Register and it is therefore absolutely unnecessary to carry these entries in the Deposit Register again into the Ledger. If the Nazir maintains an Index to this Register, he can immediately find out whether any decree amount is deposited in any particular case by referring to the Index.

There is a separate Register for Duty and Penalty realised in courts. So long as the presiding Judges satisfy themselves that the duty and penalty recovered in any case are remitted the same day or the next following day to the Treasury, it is unnecessary to enter these also in the ledger. The ledgering of these items will not ensure the prompt transmission of the amount to the Treasury.

The remaining items viz., expenses of witnesses, diet money to civil prisoners, commissioner's fees and other miscellaneous items now shown under 4 columns or headings in the Cash Book may be all clubbed together and included as one item and thereby much of the confusion now created avoided. Thus the number of

entries

6

entries to be made by the Nazir in the Cash Book and the Ledger will be much reduced.

If the balance after disbursement under each case in the Ledger be noted in red ink in its proper column and at the end of each quarter the Head Ministerial officer of each court takes the Ledger into his hands and dictates to a clerk other than the Nazir, the balance in each serial number of the ledger, the sum total of such balances should be equivalent to the Cash on hand with the Nazir plus any sum sent to the Treasury to be credited to the Personal Deposit of the Judge. The balance list may be certified to by the Head Ministerial officer, the clerk and the Nazir and submitted to the presiding officer to facilitate checking by the latter and the list will form the basis for preparing the statement of lapses and the preparation of ledger at the end of the year.

The Comptroller who was consulted in the matter has signified his approval to the above changes.

I am therefore to request that the Government may be pleased to accord their sanction to the issue of the enclosed Rule of Practice embodying all the necessary changes suggested above and in supersession of the Rules of Practice Nos. 127 and 129 and Civil Circular Letters Nos. 156, 170, 198 and 206.

I have the honour to be,

S i r,

Your most obedient servant,

E Samiwamy

R e g i s t r a r.

Tcr.

IN THE CHIEF COURT OF MYSORE AT BANGALORE.

Civil Side.

Rule of Practice No. , Dated September 1920.

The Chief Court issues the following Rules for regulating the practice of civil courts in the matter of receipt and payment of money in courts, in supersession of the marginally* noted Rules of Practice and Circular Letters. These Rules shall come into force with effect from the 2nd of January 1921.

* Rule of Practice Nos.127 and 129, dated the 30th October 1905 and the 22nd October 1906, and Circular Letters Nos. 156, dated 4th March 1903, 170, dated 25th March 1905, 198, dated 30th March 1908 and 206, dated 20th June 1908.

1. Money received in the civil courts may be divided into three classes:--

(a) General deposits. (a) Sums received in satisfaction of decrees, sale proceeds of intestate property and security amounts and generally all amounts to be accounted for in detail as Civil Court Deposits.

(b) Cash expenses. (b) Expenses of witnesses, Diet money to civil prisoners, commissioners', arbitrators', translators', interpreters' or copyists' fees, miscellaneous items such as postage charges, etc.

(c) Government money. (c) Stamp duty and penalty levied on insufficiently stamped documents and other fines and forfeits to Govern-

2. When a party brings money into court for deposit, the Nazir of the Court shall issue a receipt order under his own signature authorising the Treasury to receive the money in deposit, and stating clearly the ~~number~~ nature of the deposit, the name of the party, the number of the case and the amount tendered.

Procedure in regard to receipts and payments of the items under class (a).

3. On return of the receipt order with the Treasury acknowledgment, the Nazir shall credit the amount in the Deposit Register under the initials of the Judge, but not in the Cash Book, giving a receipt for the money deposited.

4. Sums received from the Process Nazir or Process Servers shall also be dealt with in the manner described in Rules 2 and 3.

5. "When money is received through the post, by money order or otherwise," from parties or from other Courts on account of Civil Court Deposits, a receipt voucher shall be prepared by the Nazir and signed by the presiding Judge before the acknowledgment to be given by the Post Office is signed by him and the amount shall forthwith be at once remitted to the Treasury with the receipt order. On return of the receipt order with the Treasury acknowledgment, the amount shall be credited in the Deposit Register, but not in the Cash Book.

NOTE:--The presiding Judge should satisfy himself that all such amounts have been received by the Treasury and brought on the Court Deposit Register.

6. Payments to decree-holders and others shall be made on cheques, which shall state the amount to be paid, the name of the payee and the number of the receipt order and suit to which it relates. The amount so paid must be debited at once in the Deposit Register but not in the Cash Book. The presiding Judge, when signing the cheque must also initial the entry of payment in the Deposit Register. It should be distinctly understood that the Judge is responsible for drawing cheques in favour of the right parties.

NOTE:--A separate cheque should issue for each individual deposit or part thereof, and should be noted against the original item of credit.

Procedure in regard to receipt and payment of items under class (b).

7. Money tendered by parties on account of expenses of witnesses, diet money to civil debtors, postage etc., under class(b), shall be received in cash by the Court Nazir, and credited in the Cash Book. These sums may be retained in the hands of the Nazir, but any amount in excess of his security amoun shall be remitted to the Treasury with a single receipt order without details, to be credited to a separate head "Personal Deposit Account." The receipt order should be signed by the Judge.

8. These sums shall be paid by him in cash to the parties concerned and charged off in the Cash Book.

9. When money is required out of personal deposit account for payment, it shall be drawn on cheques signed by the Judge made payable only to an officer of the Court.

NOTE:--A separate form of cheque distinguishable from those used for drawing on the general deposit account should be adopted for the personal deposit account.

10. Sums remitted to the Treasury for credit to personal deposit account and withdrawn therefrom shall be entered in the Cash Book.

NOTE:--The presiding Judge should see that these items (i.e. sums remitted to the Treasury and withdrawn) have been duly recorded in the Pass Book in Form No.30 of the Mysore Account Code, Vol.II by the Treasury.

11. Stamp duties and penalties levied on insufficiently stamped documents and other moneys, intended for final credit to Government shall be entered in a Remittance Register at the time of receipt under the initials of the Judge and remitted to the Treasury on the same or following day. These items should also be entered in the Cash Book.

Procedure in regard to receipt and payment of [illegible] under clause (c).

NOTE:--The Judge should satisfy himself that the sums so realised have been duly remitted to the Treasury and not retained in the hands of the Nazir.

Refund of court fees and half the institution fee.

12. The Rules prescribed by the Chief Court for refund of court fees under sections 10, 11 and 12 of the Mysore Court Fees Regulation, III of 1900, and of half the institution fee under section 17A of the Mysore Civil Court Regulation II of 1898, shall be ~~xxxxxxxx~~ followed in the matter of such payments. The orders granting the refunds shall be entered in the prescribed register.

Registers to be maintained.

13. The following registers shall be maintained by the Civil Courts for recording their monetary and other transactions in connection with the judicial work:--

(a) Cash Book.

(b) Ledger.

(c) Deposit Register.

(d) Register of refund orders.

(e) Register of stamp duties and penalties.

(f) Remittance Register.

(g) Treasury Register of Personal Deposits.

(h) Books of receipt orders;

(i) General Deposit Account

(ii) Personal Deposit Account.

(i) Cheque Books.

(i) General Deposit Account.

(ii) Personal Deposit Account.

The

The Cash Book.---This is a register in which all receipts or payments in cash at the court on account of items under class (b) mentioned in Rule 1 and amounts transferred to and withdrawn from personal deposit including cash drawn from the Treasury by means of cheques and all payments made in cash are entered as soon as the transactions take place.

The cash book shall be maintained in the following form:--

Register No.VIII. Cash Book. 19 -19 .

In the Court of .....

Date.	Receipts				Disbursements.				
	Page in the Ledger.	For what case and by whom.	Amount.	Signature of person making payment.	Page in the Ledger.	For what case and to whom.	Amount.	Signature of person receiving payment with amount received in words.	
1	2	3	4	5	6	7	8	9	

The Cash Book shall be closed daily as follows:--

Receipt Side.		Disbursement Side.	
Total receipts for the day		Total disbursements for the day ...	
Add opening balance ...		Add closing balance ...	
Grand Total		Grand Total	

The

The amounts in the hands of the Nazir should be verified by the Judge every evening before initialling the book, or, when that is not practicable on the next court day. The cash chest shall invariably be opened in the presence of the Judge, or, in a District Court, of the Sheristedar, if the District Judge is absent from head quarters.

The entries in the cash book should be transferred to the Ledger from day to day and the presiding Judge must see that this work is not neglected.

Entries of the transactions relating to personal deposit should not be ledgered, as a separate book is maintained for them.

THE LEDGER.---This is a register which brings together the entries in the Cash Book in one place. It is posted for each case separately and has two sides like the Cash Book, viz., the credit side and the debit side. When posted it shews the total receipts on account of petty items per case, the amount received from each party, the disbursements and the balance, if any.

1. To post the Ledger. -- The ledger should be paged but cases should be entered as the first transactions of each case occur, without regard to the number or year of the case in the court registers. Sufficient space should be reserved for all future entries relating to each case.

2. The amount of balance in each case should be noted in red ink in columns 9 and 10 of the Ledger each time after posting up any cash transaction

Every year, all the cases in which there is any outstanding balance should be first entered in the new ledger, and the new cases should be entered up subsequently every day as they occur.

THE DEPOSIT REGISTER.---This is a register in which all sums, which have to be accounted for in detail as Civil Court Deposits (Rule 1(a)) and which are not ~~are~~ eventually entered. All sums paid direct into the Treasury by the person tendering the money and those sent by the court itself for deposit are to be entered if the deposits relate to the general deposit account. Every entry of credit is to be attested by the presiding Judge and every payment by means of a cheque is to be noted in the register against the credit item to which it relates and is also to be initialled by the Judge.

REGISTER OF REFUND ORDERS.-- This is a register in which every instance of remission of the institution fee whether whole or in part is recorded. The columns in this register shew the number of the case in which the refund was granted, the party to whom it is granted, the amount refunded, date of the judgment, the date of application for refund certificate and the initials of the Judge together with remarks, if any.

RECEIPT ORDER BOOKS.-- These books are in counterfoil and are used for sending money to the Treasury to be kept in deposit. Corresponding with the two kinds of deposit accounts there are two kinds of these books and the difference between them is that the books used in connection with the personal deposit account have the words "Personal Deposit Account" printed at the top

of

of every order. Both the foil and the counterfoil of each "Order" are to be filled in by entering in the space provided therefor, the nature and amount of the deposit, the name of the party making the deposit, and the case number in which the deposit has to be made.

NOTE:--Receipt orders with which sums are sent for credit to personal deposit accounts will not give details but only shew the lump sum sent for credit.

REMITTANCE REGISTER.--- This register is maintained for the purpose of entering money which is to be remitted to the Treasury for final credit to Government as revenue and shall contain the amount remitted, the number of the case the party from whom and the head of account under which recovered, and the Treasury Officer's certificate of acknowledgment.

CHEQUE BOOKS.---These books are also in counterfoil. Each book has a serial number which is repeated in every cheque form contained within, and each book contains one hundred blank cheque forms, which are also numbered serially. Like the receipt order books, two separate cheque books are in use at the same time, the difference between them being the same as in the case of receipt orders. The cheque and its counterfoil are to be filled in with entries of the amount to be paid, the party to whom it is to be paid and the number of the receipt order with which it was originally remitted to the Treasury for credit.

NOTE:--Cheques issued for withdrawing money from personal deposit account will not give particulars.

14. The following accounts shall be rendered to the Comptroller's Office:--

Accounts to be rendered.

(1) Monthly.

A plus and minus memorandum shewing the receipts and payments during the month with opening & closing balances accompanied by a separate memorandum, of uncashed cheques in the following form:--

Plus and minus memorandum of the court of .....

for the month of ....

Particulars.	Money at the credit of the Court.		
	As per Deposit Register	As per Cash Book. In the Nazir's hand.	As per Cash Book. In Personal deposit.
	Rs a p	Rs a p	Rs a p.
Opening balance			
Receipts during the month			
Total			
Payments during the month ...			
Closing balance. ...			

Certified that the balance agrees with the cash on hand.

Date .....

Judge.

The

The due date of sending this account to the Comptroller is the 16th of the month following that to which the accounts relate.

(2) Annually.

A statement shewing the amounts lapsed to Government out of items received on account of summons batta, etc., as per Article 407 of the Mysore Account Code, Vol.I.

15. All sums paid in execution of decrees if not disbursed to the decree-holder on the same day, and all sums paid in as security or as proceeds of sale of intestate property, or other deposit, or in payment of stamp duty and penalty, shall be sent to the District or Taluk Treasury on the day of receipt where the Treasury is at the same place as the Court, and at the end of each month where the Treasury is at another place.

16. The Nazir, in courts where there is a Nazir, and in other courts the Head Munshi, or the Sheristedar of the District Court shall be responsible under the Judge of the Court for the correct keeping up of the Registers Nos.XIII, IX and X connected with the payment of money, and shall also be strictly responsible for the money shewn by Register No.VIII to be remaining in hand.

17. The Nazir or other officer as aforesaid shall give security either by bond with deposit of title-deeds of immoveable property or by deposit of cash or Government Promissory notes to the extent of Rs.[illegible] in Munsiff's Court [illegible]

other courts. The Head Munshi of every Munsiff's Court, the Sheristedar of every Subordinate Judge's Court and the cash clerk of every District Court shall furnish the like security to the extent of Rs.250/-, unless the District Judge shall otherwise direct.

18. The Judge of every civil court shall, on the close of every month, make a special examination of the Register No.VIII(Cash Book) checking the entries of receipts by occasional reference to the records of the cases themselves and checking the entries and the sums of disbursements with the entries in Register No.X (Ledger Book), of the Register No.IX (Deposit Register) with Index and receipt order cheque book, and of the Register No.XIII (Register of Stamp duties and penalties) with the acknowledgment of the Treasury Officer entered in the Remittance Book.

19. He shall also call upon the Nazir at the same time to produce the sum shewn by Register No.VIII to be in his hands and shall make a note in the Register whether it has been found correct.

20. At the close of every official year the Judge of every Civil Court shall report to the Chief Court whether the results shewn in the Registers VIII (Cash Book), IX(Deposit Register) and XIII (Register of Stamp duties and penalties) correspond with the Treasury receipts, and whether the amount in the Nazir's hands corresponds with the amount shewn by Register No. VIII to be in his hands and has been produced by the Nazir. The reports shall be forwarded on or before the

19

10th July and shall be accompanied by a statement in the following form:--

Cash balance statement for the year ending..... of the Court of .....

Amount shewn by Register No. VIII to be in the hands of the Nazir.	Amount of sums in personal deposit.	Amount of sums in deposit in Government Treasury.	Amount of sums paid into the Treasury during the year on account of stamp duties and penalties and all other sums remitted to the credit of Government.	Remarks.

Station .....

Dated .....

Judge.

The column of remarks will shew whether the amount shewn as remaining in hand by Register No.VIII has been produced by the Nazir, and whether the sums shewn under heads 2, 3 and 4 have been verified by the Treasury officer, and the signature of the said officer shall be obtained to shew the correctness of these sums.

Registrar.

Tks.

G.R.S. VI–71]

20

SUBJECT..... Sanctions the issue of the enclosed Rule of Practice (Civil Side) to regulate the practice of receipt & payment of money in Civil Courts.

Diary No. of letter replied to 5097.

Section Ch.
File No. 95 - 20
Serial No. 2

General and Revenue Secretariat

( )

Proceedings of the Government of His Highness the Maharaja of Mysore.

he *191* .

Read—

Date of issue..... 15/4

Signed by.....

Letter R.O.C. no. 397/1916-17 & 20.9.20 from the Registrar, Chief Court of Mysore, requesting sanction to the issue of the annexed Rule of Practice in supersession of the Rules of Practice nos. 127 & 129 & Civil Circular Letters nos. 156, 170, 198 & 206, for reasons stated therein

in the matter of the receipt and payment of money in courts

May this be

i Printed ?.

ii treated as a standing order ?

ii published in the Gazette, English Part ?

iv translated ?

v placed at the disposal of the press ?

vi published in the Gazette Kannada Part ?

Order Thereon No 9425

Sanctioned.

D. Rs.
23/00

For Chief Secretary

To The Registrar, Chief Court of Mysore (under a covering letter).

9425

(Typist – Please type the enclosure).

7-10-20